

116TH CONGRESS  
2D SESSION

# H. R. 8408

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2020

Mr. DEFazio (for himself, Mr. GRAVES of Missouri, Mr. LARSEN of Washington, and Mr. GRAVES of Louisiana) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Aircraft Certification Reform and Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Safety management systems.

- Sec. 3. Expert review of organization designation authorizations for transport airplanes.
- Sec. 4. Certification oversight staff.
- Sec. 5. Disclosure of safety-critical information.
- Sec. 6. Periodic reviews of organization designation authorizations.
- Sec. 7. Limitations on delegation.
- Sec. 8. Oversight of organization designation authorization unit members.
- Sec. 9. Integrated project teams.
- Sec. 10. Oversight integrity briefing.
- Sec. 11. Appeals of certification decisions.
- Sec. 12. Employment restrictions.
- Sec. 13. Professional development and skills enhancement.
- Sec. 14. Voluntary safety reporting program.
- Sec. 15. Compensation limitation.
- Sec. 16. System safety assessments and other requirements.
- Sec. 17. Flight crew alerting.
- Sec. 18. Amended type certificates.
- Sec. 19. Whistleblower protections.
- Sec. 20. Pilot training.
- Sec. 21. Nonconformity with approved type design.
- Sec. 22. Implementation of recommendations.
- Sec. 23. Oversight of FAA compliance program.
- Sec. 24. Settlement agreement.
- Sec. 25. Human factors.
- Sec. 26. Technical corrections.
- Sec. 27. Definitions.

## 1 **SEC. 2. SAFETY MANAGEMENT SYSTEMS.**

2       (a) IN GENERAL.—Not later than 30 days after the  
3 date of enactment of this Act, the Administrator shall ini-  
4 tiate a rulemaking proceeding to require each person who  
5 holds both a type certificate and a production certificate  
6 issued under section 44704 of title 49, United States  
7 Code, to adopt, not later than the earlier of the date that  
8 is 180 days after the issuance of the regulation required  
9 under this subsection or the date that is 4 years after the  
10 date of enactment of this Act, a safety management sys-  
11 tem consistent with the standards and recommended prac-  
12 tices contained in annex 19 to the Convention on Inter-  
13 national Civil Aviation (61 Stat. 1180) in effect on the

1 earlier of the date of the issuance of such regulations or  
2 the date that is 4 years after the date of enactment of  
3 this Act.

4 (b) CONTENTS OF REGULATIONS.—The regulations  
5 issued under subsection (a) shall, at a minimum, include  
6 provisions for the Administrator’s approval of, and regular  
7 oversight of adherence to, a certificate holder’s safety  
8 management system adopted pursuant to such regula-  
9 tions.

10 (c) DEADLINE.—Not later than 12 months after the  
11 end of the comment period for the proposed rule issued  
12 pursuant to subsection (a), the Administrator shall issue  
13 a final rule with respect to such proposed rule.

14 (d) SAFETY REPORTING PROGRAM.—The regulations  
15 issued under subsection (a) shall require a safety manage-  
16 ment system to include a confidential employee reporting  
17 system through which employees can report hazards,  
18 issues, concerns, occurrences, and incidents. A reporting  
19 system under this subsection shall include provisions for  
20 non-punitive reporting of such items by employees in a  
21 manner consistent with other confidential employee re-  
22 porting systems administered by the Administrator. Such  
23 regulations shall also require a certificate holder described  
24 in subsection (a) to submit a summary of reports received

1 under this subsection to the Administrator at least twice  
2 per year.

3 (e) CODE OF ETHICS.—The regulations issued under  
4 subsection (a) shall require a safety management system  
5 to include establishment of a code of ethics applicable to  
6 all employees of a certificate holder, including officers,  
7 which clarifies that safety is the organization’s highest pri-  
8 ority.

9 (f) PROTECTION OF SAFETY INFORMATION.—Section  
10 44735(a) of title 49, United States Code, is amended—

11 (1) by striking “title 5 if the report” and in-  
12 serting the following: “title 5—

13 “(1) if the report”;

14 (2) by striking the period at the end and insert-  
15 ing “; or”; and

16 (3) by adding at the end the following:

17 “(2) if the report, data, or other information is  
18 submitted to the Federal Aviation Administration  
19 pursuant to section 2(d) of the Aircraft Certification  
20 Reform and Accountability Act.”.

21 **SEC. 3. EXPERT REVIEW OF ORGANIZATION DESIGNATION**  
22 **AUTHORIZATIONS FOR TRANSPORT AIR-**  
23 **PLANES.**

24 (a) EXPERT REVIEW.—

1           (1) ESTABLISHMENT.—Not later than 30 days  
2           after the date of enactment of this Act, the Adminis-  
3           trator shall convene an expert panel (in this section  
4           referred to as the “review panel”) to review and  
5           make findings and recommendations on the matters  
6           listed in paragraph (2).

7           (2) CONTENTS OF REVIEW.—With respect to  
8           each holder of an organization designation author-  
9           ization for the design and production of transport  
10          airplanes, the review panel shall review the following:

11                (A) The extent to which the holder has im-  
12                plemented a safety culture consistent with the  
13                principles of the International Civil Aviation  
14                Organization Safety Management Manual,  
15                Fourth Edition (International Civil Aviation  
16                Organization Doc. No. 9589) or any similar  
17                successor document.

18                (B) The effectiveness of measures insti-  
19                tuted by the holder to instill, among employees  
20                and contractors of such holder that support or-  
21                ganization designation authorization functions,  
22                a commitment to safety above all other prior-  
23                ities.

24                (C) The holder’s capability, based on the  
25                holder’s organizational structures, requirements

1 applicable to officers and employees of such  
2 holder, and safety culture, of making reasonable  
3 and appropriate decisions regarding functions  
4 delegated to the holder pursuant to the organi-  
5 zation designation authorization.

6 (D) Any other matter determined by the  
7 Administrator for which inclusion in the review  
8 would be consistent with the public interest in  
9 aviation safety.

10 (3) COMPOSITION OF REVIEW PANEL.—The re-  
11 view panel shall consist of—

12 (A) 2 representatives of the National Aero-  
13 nautics and Space Administration;

14 (B) 2 employees of the Administration's  
15 Aircraft Certification Service with experience  
16 conducting oversight of persons not involved in  
17 the design or production of transport airplanes;

18 (C) 1 employee of the Administration's  
19 Aircraft Certification Service with experience  
20 conducting oversight of persons involved in the  
21 design or production of transport airplanes;

22 (D) 2 employees of the Administration's  
23 Flight Standards Service with experience in  
24 oversight of safety management systems;

1           (E) 1 appropriately qualified representa-  
2           tive, designated by the applicable represented  
3           organization, of each of—

4                   (i) a labor union representing airline  
5                   pilots involved in both passenger and all-  
6                   cargo operations;

7                   (ii) a labor union, not selected under  
8                   clause (i), representing airline pilots with  
9                   expertise in the matters described in para-  
10                  graph (2);

11                  (iii) a labor union representing em-  
12                  ployees engaged in the assembly of trans-  
13                  port airplanes;

14                  (iv) the certified bargaining represent-  
15                  ative under section 7111 of title 5, United  
16                  States Code, for field engineers engaged in  
17                  the audit or oversight of an organization  
18                  designation authorization within the Air-  
19                  craft Certification Service of the Adminis-  
20                  tration; and

21                  (v) the certified bargaining represent-  
22                  ative for safety inspectors of the Adminis-  
23                  tration;

(F) 2 independent experts who have not  
served as a political appointee in the Adminis-  
tration and—

(i) who hold either a baccalaureate or  
postgraduate degree in the field of aero-  
space engineering or a related discipline;  
and

(ii) who have a minimum of 20 years  
of relevant applied experience;

(G) 4 air carrier employees whose job re-  
sponsibilities include administration of a safety  
management system; and

(H) 4 individuals representing 4 different  
holders of organization designation authoriza-  
tions, with preference given to individuals rep-  
resenting holders of organization designation  
authorizations for the design or production of  
aircraft other than transport airplanes or for  
the design or production of aircraft engines,  
propellers, or appliances.

(4) RECOMMENDATIONS.—The review panel  
shall make recommendations to the Administrator  
regarding suggested actions to address any defi-  
ciencies found after review of the matters listed in  
paragraph (2).

1 (5) REPORT.—

2 (A) SUBMISSION.—Not later than 270  
3 days after the date on which the review panel  
4 is established, the review panel shall transmit to  
5 the Administrator and the congressional com-  
6 mittees of jurisdiction a report containing the  
7 findings and recommendations of the review  
8 panel regarding the matters listed in paragraph  
9 (2), except that such report shall include—

10 (i) only such findings endorsed by 10  
11 or more individual members of the review  
12 panel; and

13 (ii) only such recommendations de-  
14 scribed in paragraph (4) endorsed by 18 or  
15 more of the individual members of the re-  
16 view panel.

17 (B) DISSENTING VIEWS.—In submitting  
18 the report required under this paragraph, the  
19 review panel shall append to such report the  
20 dissenting views of any individual member or  
21 group of members of the review panel regarding  
22 the findings or recommendations of the review  
23 panel.

24 (C) PUBLICATION.—Not later than 5 days  
25 after receiving the report under subparagraph

1 (A), the Administrator shall publish such re-  
2 port, including any dissenting views appended  
3 to the report, on the website of the Administra-  
4 tion.

5 (D) TERMINATION.—The review panel  
6 shall terminate upon submission of the report  
7 under subparagraph (A).

8 (6) ADMINISTRATIVE PROVISIONS.—

9 (A) ACCESS TO INFORMATION.—The re-  
10 view panel shall have authority to perform the  
11 following actions if a majority of the total num-  
12 ber of review panel members consider each ac-  
13 tion necessary and appropriate:

14 (i) Entering onto the premises of an  
15 organization designation authorization  
16 holder described in subsection (a) for ac-  
17 cess to and inspection of records or other  
18 purposes.

19 (ii) Notwithstanding any other provi-  
20 sion of law, accessing and inspecting  
21 unredacted records in the possession of an  
22 employee or appointed political official of  
23 the Administration.

24 (iii) Interviewing employees of such  
25 organization designation authorization

holder or the Administration as necessary  
for the panel to complete its work.

(B) DISCLOSURE OF FINANCIAL INTERESTS.—Each individual serving on the review panel shall disclose to the Administrator any financial interest held by such individual, or a spouse or dependent of such individual, in a business enterprise engaged in the design or production of transport airplanes, aircraft engines designed for transport airplanes, or major systems, components, or parts thereof. The Administrator shall publicly post such disclosure on the website of the Administration in a deidentified form.

(C) PROTECTION OF PROPRIETARY INFORMATION; TRADE SECRETS.—

(i) MARKING.—The custodian of a record accessed under subparagraph (A) may mark such record as proprietary or containing a trade secret. A marking under this subparagraph shall not be dispositive with respect to whether such record contains any information subject to legal protections from public disclosure.

1 (ii) NONDISCLOSURE FOR NON-FED-  
2 ERAL GOVERNMENT PARTICIPANTS.—

3 (I) NON-FEDERAL GOVERNMENT  
4 PARTICIPANTS.—Prior to partici-  
5 pating on the review panel, each indi-  
6 vidual serving on the review panel rep-  
7 resenting a non-Federal entity, includ-  
8 ing a labor union, shall execute an  
9 agreement with the Administrator in  
10 which the individual shall be prohib-  
11 ited from disclosing at any time, ex-  
12 cept as required by law, to any per-  
13 son, foreign or domestic, any non-pub-  
14 lic information made accessible to the  
15 panel under subparagraph (A).

16 (II) FEDERAL EMPLOYEE PAR-  
17 TICIPANTS.—Federal employees serv-  
18 ing on the review panel as representa-  
19 tives of the Federal Government and  
20 who are required to protect propri-  
21 etary information and trade secrets  
22 under section 1905 of title 18, United  
23 States Code, shall not be required to  
24 execute agreements under this sub-  
25 paragraph.

1 (iii) PROTECTION OF VOLUNTARILY  
2 SUBMITTED SAFETY INFORMATION.—Infor-  
3 mation subject to protection from disclo-  
4 sure by the Administration in accordance  
5 with sections 40123 and 44735 of title 49,  
6 United States Code, is deemed voluntarily  
7 submitted to the Administration under  
8 such sections when shared with the review  
9 panel and retains its protection from dis-  
10 closure (including protection under section  
11 552(b)(3) of title 5, United States Code).  
12 The custodian of a record subject to such  
13 protection may mark such record as sub-  
14 ject to statutory protections. A marking  
15 under this subparagraph shall not be dis-  
16 positive with respect to whether such  
17 record contains any information subject to  
18 legal protections from public disclosure.  
19 Members of the review panel will protect  
20 voluntarily submitted safety information  
21 and other otherwise exempt information to  
22 the extent permitted under applicable law.

23 (iv) PROTECTION OF PROPRIETARY  
24 INFORMATION AND TRADE SECRETS.—  
25 Members of the review panel will protect

1           proprietary information, trade secrets, and  
2           other otherwise exempt information to the  
3           extent permitted under applicable law.

4                   (v) RESOLVING CLASSIFICATION OF  
5           INFORMATION.—If the review panel and an  
6           organization designation authorization  
7           holder subject to review under this section  
8           disagree as to the proper classification of  
9           information described in this subpara-  
10          graph, then the deputy chief counsel of the  
11          Administration shall determine the proper  
12          classification of such information and  
13          whether such information will be redacted.

14                   (D) APPLICABLE LAW.—Public Law 92–  
15          463 shall not apply to the panel established  
16          under this subsection.

17                   (E) FINANCIAL INTEREST DEFINED.—In  
18          this paragraph, the term “financial interest”—

19                           (i) excludes securities held in an index  
20                           fund; and

21                           (ii) includes—

22                                   (I) any current or contingent  
23                                   ownership, equity, or security interest;

24                                   (II) an indebtedness or com-  
25                                   pensated employment relationship; or

1 (III) any right to purchase or ac-  
2 quire any such interest, including a  
3 stock option or commodity future.

4 (b) FAA AUTHORITY.—

5 (1) IN GENERAL.—After reviewing the findings  
6 of the review panel submitted under subsection  
7 (a)(5), the Administrator may limit, suspend, or ter-  
8minate an organization designation authorization  
9 subject to review under this section.

10 (2) REINSTATEMENT.—The Administrator may  
11 condition reinstatement of a limited, suspended, or  
12 terminated organization designation authorization on  
13 the holder’s implementation of any corrective actions  
14 determined necessary by the Administrator.

15 (3) RULE OF CONSTRUCTION.—Nothing in this  
16 subsection shall be construed to limit the Adminis-  
17trator’s authority to take any action with respect to  
18 an organization designation authorization, including  
19 limitation, suspension, or termination of such au-  
20thorization.

21 (c) ORGANIZATION DESIGNATION AUTHORIZATION  
22 PROCESS IMPROVEMENTS.—Not later than 1 year after  
23 receipt of the recommendations submitted under sub-  
24 section (a)(5), the Administrator shall—

1           (1) report to the congressional committees of  
2 jurisdiction on—

3                   (A) whether the Administrator has con-  
4 cluded that such holder is able to safely and re-  
5 liably perform all delegated functions in accord-  
6 ance with all applicable provisions of chapter  
7 447 of title 49, United States Code, title 14,  
8 Code of Federal Regulations, and other orders  
9 or requirements of the Administrator, and, if  
10 not, the Administrator shall outline—

11                           (i) the risk mitigations or other cor-  
12 rective actions, including the implementa-  
13 tion timelines of such mitigations or ac-  
14 tions, the Administrator has established  
15 for or required of such holder as pre-  
16 requisites for a conclusion by the Adminis-  
17 trator under subparagraph (A); or

18                           (ii) the status of any ongoing inves-  
19 tigatory actions; and

20                   (B) the status of implementation of each  
21 of the recommendations of the review panel, if  
22 any, with which the Administrator concurs; and

23           (2) report to the congressional committees of  
24 jurisdiction on—

1 (A) the status of procedures under which  
2 the Administrator will conduct focused over-  
3 sight of such holder's processes for performing  
4 delegated functions with respect to the design  
5 of new and derivative transport airplanes and  
6 the production of such airplanes; and

7 (B) the Administrator's efforts, to the  
8 maximum extent practicable and subject to ap-  
9 propriations, to increase the number of engi-  
10 neers, inspectors, and other qualified technical  
11 experts, as necessary to fulfill the requirements  
12 of this section, in—

13 (i) each office of the Administration  
14 responsible for dedicated oversight of such  
15 holder; and

16 (ii) the System Oversight Division, or  
17 any successor division, of the Aircraft Cer-  
18 tification Service.

19 (d) NON-CONCURRENCE WITH RECOMMENDA-  
20 TIONS.—Not later than 6 months after receipt of the rec-  
21 ommendations submitted under subsection (a)(5), with re-  
22 spect to each recommendation of the review panel with  
23 which the Administrator does not concur, if any, the Ad-  
24 ministrator shall publish on the website of the Administra-  
25 tion and submit to the congressional committees of juris-

1 diction a detailed explanation as to why, including if the  
2 Administrator believes implementation of such rec-  
3 ommendation would not improve aviation safety.

4 **SEC. 4. CERTIFICATION OVERSIGHT STAFF.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to the Administrator  
7 \$27,000,000 for each of fiscal years 2021 through 2023  
8 to recruit and retain engineers, safety inspectors, human  
9 factors specialists, and software and cybersecurity experts  
10 and other qualified technical experts who perform duties  
11 related to the certification of aircraft, aircraft engines,  
12 propellers, and appliances.

13 (b) RECRUITMENT AND RETENTION.—

14 (1) BARGAINING UNITS.—Not later than 30  
15 days after the date of enactment of this Act, the Ad-  
16 ministrator shall begin collaboration with the exclu-  
17 sive bargaining representatives of engineers, safety  
18 inspectors, systems safety specialists, and other  
19 qualified technical experts certified under section  
20 7111 of title 5, United States Code, to improve re-  
21 cruitment of employees for, and to implement reten-  
22 tion incentives for employees holding, positions with  
23 respect to the certification of aircraft, aircraft en-  
24 gines, propellers, and appliances. If the Adminis-  
25 trator and such representatives are unable to reach

1 an agreement collaboratively, the Administrator and  
2 such representatives shall negotiate in accordance  
3 with section 40122(a) of title 49, United States  
4 Code, to improve recruitment and implement reten-  
5 tion incentives for employees described in subsection  
6 (a) who are covered under a collective bargaining  
7 agreement.

8 (2) OTHER EMPLOYEES.—Notwithstanding any  
9 other provision of law, not later than 30 days after  
10 the date of enactment of this Act, the Administra-  
11 tion shall improve recruitment of, and implement re-  
12 tention incentives for, any individual described in  
13 subsection (a) who is not covered under a collective  
14 bargaining agreement.

15 (3) RULE OF CONSTRUCTION.—Nothing in this  
16 section shall be construed to vest in any exclusive  
17 bargaining representative any management right of  
18 the Administrator, as such right existed on the day  
19 before the date of enactment of this Act.

20 (4) AVAILABILITY OF APPROPRIATIONS.—Any  
21 action taken by the Administrator under this section  
22 shall be subject to the availability of appropriations  
23 authorized under subsection (a).

1 **SEC. 5. DISCLOSURE OF SAFETY-CRITICAL INFORMATION.**

2 (a) PROHIBITION.—Section 44704 of title 49, United  
3 States Code, is amended by striking subsection (e) and  
4 inserting the following:

5 “(e) DISCLOSURE OF SAFETY-CRITICAL INFORMA-  
6 TION.—

7 “(1) IN GENERAL.—Notwithstanding a delega-  
8 tion described in section 44702(d), the Adminis-  
9 trator shall require an applicant for, or holder of, a  
10 type certificate for a transport-category aircraft cov-  
11 ered under part 25 of title 14, Code of Federal Reg-  
12 ulations, to submit safety-critical information with  
13 respect to such aircraft to the Administrator in such  
14 form, manner, or time as the Administrator may re-  
15 quire. Such safety-critical information shall in-  
16 clude—

17 “(A) any design and operational details,  
18 intended functions, and failure modes of any  
19 system that, without being commanded by the  
20 flight crew, commands the operation of any  
21 safety-critical function or feature required for  
22 control of an aircraft during flight or that oth-  
23 erwise changes the flight path or airspeed of an  
24 aircraft;

25 “(B) the design and operational details, in-  
26 tended functions, failure modes, and mode

annunciations of autopilot and autothrottle systems, if applicable;

“(C) any failure or operating condition that the applicant or holder anticipates or has concluded would result in an outcome with a severity level of hazardous or catastrophic, as defined in the appropriate Administration airworthiness requirements and guidance applicable to transport-category aircraft defining risk severity;

“(D) any adverse handling quality that fails to meet the requirements of applicable regulations without the addition of a software system to augment the flight controls of the aircraft to produce compliant handling qualities; and

“(E) a system safety assessment with respect to a system described in subparagraph (A) or (B) or with respect to any component or other system for which failure or erroneous operation of such component or system could result in an outcome with a severity level of hazardous or catastrophic, as defined in the appropriate Administration airworthiness require-

ments and guidance applicable to transport-category aircraft defining risk severity.

“(2) ONGOING COMMUNICATIONS.—

“(A) NEWLY DISCOVERED INFORMATION.—The Administrator shall require that an applicant for, or holder of, a type certificate disclose to the Administrator, in such form, manner, or time as the Administrator may require, any newly discovered information or design or analysis change that would materially alter any submission to the Administrator under paragraph (1).

“(B) AIRCRAFT SYSTEM DEVELOPMENT CHANGES.—The Administrator shall establish multiple milestones throughout the certification process at which a proposed aircraft system will be assessed to determine whether any change to such system during the certification process is such that such system should be considered novel or unusual by the Administrator.

“(3) FLIGHT MANUALS.—The Administrator shall ensure that an aircraft flight manual and a flight crew operating manual (as appropriate or applicable) for an aircraft contains a description of the operation of a system described in paragraph (1)(A)

1 and flight crew procedures for responding to a fail-  
2 ure or aberrant operation of such system.

3 “(4) CIVIL PENALTY.—

4 “(A) AMOUNT.—Notwithstanding section  
5 46301, an applicant for, or holder of, a type  
6 certificate that knowingly violates paragraph  
7 (1), (2), or (3) of this subsection shall be liable  
8 to the Administrator for a civil penalty of not  
9 more than \$1,000,000 for each violation.

10 “(B) PENALTY CONSIDERATIONS.—In de-  
11 termining the amount of a civil penalty under  
12 subparagraph (A), the Administrator shall con-  
13 sider—

14 “(i) the nature, circumstances, extent,  
15 and gravity of the violation, including the  
16 length of time that such safety-critical in-  
17 formation was known but not disclosed;  
18 and

19 “(ii) with respect to the violator, the  
20 degree of culpability, any history of prior  
21 violations, and the size of the business con-  
22 cern.

23 “(5) REVOCATION AND CIVIL PENALTY FOR IN-  
24 DIVIDUALS.—

1           “(A) IN GENERAL.—The Administrator  
2           shall revoke any airline transport pilot certifi-  
3           cate issued under section 44703 held by any in-  
4           dividual who, while acting on behalf of an appli-  
5           cant for, or holder of, a type certificate, know-  
6           ingly makes a false statement with respect to  
7           any of the matters described in subparagraphs  
8           (A) through (D) of paragraph (1).

9           “(B) AUTHORITY TO IMPOSE CIVIL PEN-  
10          ALTY.—The Administrator may impose a civil  
11          penalty under section 46301 for each violation  
12          described in subparagraph (A).

13          “(6) RULE OF CONSTRUCTION.—Nothing in  
14          this subsection shall be construed to affect or other-  
15          wise inhibit the authority of the Administrator to  
16          deny an application by an applicant for a type cer-  
17          tificate or to revoke a type certificate of a holder of  
18          such certificate.

19          “(7) DEFINITION OF TYPE CERTIFICATE.—In  
20          this subsection, the term ‘type certificate’—

21                 “(A) means a type certificate issued under  
22                 subsection (a) or an amendment to such certifi-  
23                 cate; and

24                 “(B) does not include a supplemental type  
25                 certificate issued under subsection (b).”.

1 (b) CIVIL PENALTY AUTHORITY.—Section 44704 of  
 2 title 49, United States Code, is further amended by adding  
 3 at the end the following:

4 “(f) HEARING REQUIREMENT.—The Administrator  
 5 may find that a person has violated subsection (a)(6) or  
 6 paragraph (1), (2), or (3) of subsection (e) and impose  
 7 a civil penalty under the applicable subsection only after  
 8 notice and an opportunity for a hearing. The Adminis-  
 9 trator shall provide a person—

10 “(1) written notice of the violation and the  
 11 amount of penalty; and

12 “(2) the opportunity for a hearing under sub-  
 13 part G of part 13 of title 14, Code of Federal Regu-  
 14 lations.”.

15 **SEC. 6. PERIODIC REVIEWS OF ORGANIZATION DESIGNA-**  
 16 **TION AUTHORIZATIONS.**

17 Section 44736 of title 49, United States Code, is  
 18 amended—

19 (1) by redesignating subsection (c) as sub-  
 20 section (d); and

21 (2) by inserting after subsection (b) the fol-  
 22 lowing:

23 “(c) PERIODIC REVIEWS.—

24 “(1) IN GENERAL.—Not less than once every 7  
 25 years, the Administrator shall conduct a comprehen-

1 sive review of the capability of each ODA holder for  
 2 the design of an aircraft, aircraft engine, propeller,  
 3 or appliance pursuant to a delegation by the Admin-  
 4 istrator under section 44702(d) to meet the require-  
 5 ments of subpart D of part 183 of title 14, Code of  
 6 Federal Regulations, based on the holder’s organiza-  
 7 tional structures, requirements applicable to officers  
 8 and employees, and safety culture.

9 “(2) CONTENTS OF REVIEW.—A comprehensive  
 10 review under this subsection shall include an assess-  
 11 ment of the effectiveness of, and organization-wide  
 12 adherence to, an ODA holder’s procedures manual  
 13 and voluntary safety reporting system.”.

14 **SEC. 7. LIMITATIONS ON DELEGATION.**

15 Section 44702(d) of title 49, United States Code, is  
 16 amended by adding at the end the following:

17 “(4) Notwithstanding any other provision of  
 18 law, the Administrator may not delegate a matter  
 19 under this subsection—

20 “(A) with respect to the certification of the  
 21 design of a novel or unusual design feature that  
 22 results in a major change to a type design, ex-  
 23 cept when the Administrator determines—

24 “(i) a matter is a routine task; or

1 “(ii) during the course of the certifi-  
 2 cation process, that a matter no longer re-  
 3 lates to a novel or unusual design feature;  
 4 or

5 “(B) on the sole basis that the Federal  
 6 Aviation Administration lacks a sufficient num-  
 7 ber of personnel qualified or with the requisite  
 8 expertise to perform the function.”.

9 **SEC. 8. OVERSIGHT OF ORGANIZATION DESIGNATION AU-**  
 10 **THORIZATION UNIT MEMBERS.**

11 (a) IN GENERAL.—Chapter 447 of title 49, United  
 12 States Code, as amended by this Act, is amended by add-  
 13 ing at the end the following:

14 **“§ 44741. Approval of organization designation au-**  
 15 **thorization unit members**

16 “(a) IN GENERAL.—Beginning on the date that is 1  
 17 year after the date of enactment of the Aircraft Certifi-  
 18 cation Reform and Accountability Act, each individual who  
 19 is selected on or after such date to become a member of  
 20 an ODA unit by an ODA holder engaged in the design  
 21 of an aircraft, aircraft engine, propeller, or appliance and  
 22 performs an authorized function pursuant to a delegation  
 23 by the Administrator of the Federal Aviation Administra-  
 24 tion under section 44702(d)—

1           “(1) shall be an employee, a contractor, or the  
2 employee of a supplier of the ODA holder; and

3           “(2) may not become a member of such unit  
4 unless approved by the Administrator pursuant to  
5 this section.

6           “(b) PROCESS AND TIMELINE.—

7           “(1) IN GENERAL.—The Administrator shall  
8 maintain an efficient process for the review and ap-  
9 proval of an individual to become a member of an  
10 ODA unit under this section.

11           “(2) PROCESS.—An ODA holder described in  
12 subsection (a) may submit to the Administrator an  
13 application for an individual to be approved to be-  
14 come a member of an ODA unit under this section.  
15 The application shall be submitted in such form and  
16 manner as the Administrator determines appro-  
17 priate. The Administrator shall require an ODA  
18 holder to submit with such an application informa-  
19 tion sufficient to demonstrate an individual’s quali-  
20 fications under subsection (c).

21           “(3) TIMELINE.—The Administrator shall ap-  
22 prove or reject an individual that is selected by an  
23 ODA holder to become an ODA unit member under  
24 this section not later than 30 days after the receipt  
25 of an application by an ODA holder.

1           “(4) DOCUMENTATION OF APPROVAL.—Upon  
2 approval of an individual to become a member of an  
3 ODA unit under this section, the Administrator shall  
4 provide such individual a letter confirming that such  
5 individual has been approved by the Administrator  
6 under this section to be an ODA unit member.

7           “(5) REAPPLICATION.—An ODA holder may  
8 submit an application under this subsection for an  
9 individual to become a member of an ODA unit  
10 under this section regardless of whether an applica-  
11 tion for such individual was previously rejected by  
12 the Administrator.

13           “(c) QUALIFICATIONS.—

14           “(1) IN GENERAL.—The Administrator shall  
15 issue minimum qualifications for an individual to be-  
16 come a member of an ODA unit under this section.  
17 In issuing such qualifications, the Administrator  
18 shall consider existing qualifications for Administra-  
19 tion employees with similar duties and whether such  
20 individual—

21                   “(A) is technically proficient and qualified  
22 to perform the authorized functions sought;

23                   “(B) has no recent record of serious en-  
24 forcement action, as determined by the Admin-  
25 istrator, taken by the Administrator with re-

1           spect to any certificate, approval, or authoriza-  
2           tion held by such individual;

3           “(C) is of good moral character (as such  
4           qualification is applied to an applicant for an  
5           airline transport pilot certificate issued under  
6           section 44703);

7           “(D) possesses the knowledge of applicable  
8           design or production requirements in this chap-  
9           ter and in title 14, Code of Federal Regula-  
10          tions, necessary for performance of the author-  
11          ized functions sought;

12          “(E) possesses a high degree of knowledge  
13          of applicable design or production principles,  
14          system safety principles, or safety risk manage-  
15          ment processes appropriate for the authorized  
16          functions sought; and

17          “(F) meets such testing, examination,  
18          training, or other qualification standards as the  
19          Administrator determines are necessary to en-  
20          sure the individual is competent and capable of  
21          performing the authorized functions sought.

22          “(2) PREVIOUSLY REJECTED APPLICATION.—In  
23          reviewing an application for an individual to become  
24          a member of an ODA unit under this section, if an  
25          application for such individual was previously re-

1       jected, the Administrator shall ensure that the rea-  
2       sons for the prior rejection have been resolved or  
3       mitigated to the Administrator’s satisfaction before  
4       making a determination on the individual’s re-  
5       application.

6       “(d) RESCISSION OF APPROVAL.—The Administrator  
7       may rescind an approval of an individual as a member of  
8       an ODA unit granted pursuant to this section at any time  
9       and for any reason the Administrator considers appro-  
10      pate. The Administrator shall develop procedures to pro-  
11      vide for notice and opportunity to appeal rescission deci-  
12      sions made by the Administrator. Such decisions by the  
13      Administrator are not subject to judicial review.

14      “(e) RECORDS AND BRIEFINGS.—

15           “(1) IN GENERAL.—Beginning on the date de-  
16      scribed in subsection (a), an ODA holder shall main-  
17      tain, for a period to be determined by the Adminis-  
18      trator and with proper protections to ensure the se-  
19      curity of sensitive and personal information—

20           “(A) any data, applications, records, or  
21      manuals required by the ODA holder’s ap-  
22      proved procedures manual, as determined by  
23      the Administrator;

24           “(B) the names, responsibilities, qualifica-  
25      tions, and example signature of each member of

1 the ODA unit who performs an authorized  
2 function pursuant to a delegation by the Ad-  
3 ministrator under section 44702(d);

4 “(C) training records for ODA unit mem-  
5 bers and ODA administrators; and

6 “(D) any other data, applications, records,  
7 or manuals determined appropriate by the Ad-  
8 ministrator.

9 “(2) CONGRESSIONAL BRIEFING.—Not later  
10 than 90 days after the date of enactment of the Air-  
11 craft Certification Reform and Accountability Act,  
12 and every 90 days thereafter through September 30,  
13 2023, the Administrator shall provide to the Com-  
14 mittee on Transportation and Infrastructure of the  
15 House of Representatives and Committee on Com-  
16 merce, Science, and Transportation of the Senate a  
17 briefing on the implementation and effects of this  
18 section, including—

19 “(A) the Administration’s performance in  
20 completing reviews of individuals and approving  
21 or denying such individuals within the timeline  
22 required under subsection (b)(3);

23 “(B) for any individual rejected by the Ad-  
24 ministrator under subsection (b) during the

1 preceding 90-day period, the reasoning or basis  
2 for such rejection; and

3 “(C) any resource, staffing, or other chal-  
4 lenges within the Administration associated  
5 with implementation of this section.

6 “(f) SPECIAL REVIEW OF QUALIFICATIONS.—

7 “(1) IN GENERAL.—Not later than 30 days  
8 after the issuance of minimum qualifications under  
9 subsection (c), the Administrator shall initiate a re-  
10 view of the qualifications of each individual who on  
11 the date on which such minimum qualifications are  
12 issued is a member of an ODA unit of a holder of  
13 a type certificate for a transport airplane to ensure  
14 such individual meets the minimum qualifications  
15 issued by the Administrator under subsection (c).

16 “(2) UNQUALIFIED INDIVIDUAL.—For any indi-  
17 vidual who is determined by the Administrator not  
18 to meet such minimum qualifications pursuant to  
19 the review conducted under paragraph (1), the Ad-  
20 ministrator—

21 “(A) shall determine whether the lack of  
22 qualification may be remedied and, if so, pro-  
23 vide such individual with an action plan or  
24 schedule for such individual to meet such quali-  
25 fications; or

1           “(B) may, if the Administrator determines  
2           the lack of qualification may not be remedied,  
3           take appropriate action, including prohibiting  
4           such individual from performing an authorized  
5           function.

6           “(3) DEADLINE.—

7           “(A) The Administrator shall complete the  
8           review required under paragraph (1) not later  
9           than 18 months after the date on which such  
10          review was initiated.

11          “(B) If the Administrator fails to complete  
12          the review in compliance with subparagraph  
13          (A), the Secretary of Transportation shall as-  
14          sume the responsibility for completing the re-  
15          view.

16          “(C) The Secretary’s completion of the re-  
17          view under subparagraph (B)—

18                 “(i) may not be delegated to the Ad-  
19                 ministration; and

20                 “(ii) shall be completed within 120  
21                 days of the date the Secretary’s assump-  
22                 tion of responsibility following the Admin-  
23                 istrator’s failure to complete the review in  
24                 compliance with subparagraph (A).

1           “(4) SAVINGS CLAUSE.—An individual approved  
2           to become a member of an ODA unit of a holder of  
3           a type certificate for a transport airplane under sub-  
4           section (a) shall not be subject to the review under  
5           this subsection.

6           “(g) PROHIBITION.—The Administrator may not au-  
7           thorize an organization or ODA holder to approve an indi-  
8           vidual selected by an ODA holder to become an ODA unit  
9           member under this section.

10          “(h) DEFINITIONS.—

11                 “(1) GENERAL APPLICABILITY.—The defini-  
12                 tions contained in section 44736 shall apply to this  
13                 section.

14                 “(2) TRANSPORT AIRPLANE.—The term ‘trans-  
15                 port airplane’ means a transport-category airplane  
16                 designed for operation by an air carrier or foreign  
17                 air carrier type-certificated with a passenger seating  
18                 capacity of 30 or more or an all-cargo or combi de-  
19                 rivative of such an airplane.

20           “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
21           authorized to be appropriated to carry out this section  
22           \$3,000,000 for each of fiscal years 2021 through 2023.

1   **“§ 44742. Interference with the duties of organization**  
2                   **designation authorization unit members**

3           “(a) IN GENERAL.—The Administrator of the Fed-  
4 eral Aviation Administration shall continuously seek to  
5 eliminate or minimize interference by an ODA holder that  
6 affects the performance of authorized functions by mem-  
7 bers of an ODA unit.

8           “(b) PROHIBITION.—

9               “(1) IN GENERAL.—It shall be unlawful for any  
10 individual who is employed by an ODA holder to  
11 commit an act of interference with an ODA unit  
12 member’s performance of authorized functions.

13           “(2) CIVIL PENALTY.—

14               “(A) INDIVIDUALS.—An individual shall be  
15 subject to a civil penalty under section  
16 46301(a)(1) for each violation under paragraph  
17 (1).

18               “(B) SAVINGS CLAUSE.—Nothing in this  
19 paragraph shall be construed as limiting or con-  
20 stricting any other authority of the Adminis-  
21 trator to pursue an enforcement action against  
22 an individual or organization for violation of ap-  
23 plicable Federal laws or regulations of the Ad-  
24 ministration.

25           “(c) REPORTING.—

1           “(1) REPORTS TO ODA HOLDER.—A member of  
2           an ODA unit shall promptly report any instances of  
3           interference experienced or witnessed by such mem-  
4           ber to the office of the ODA holder that is des-  
5           ignated to receive such reports.

6           “(2) REPORTS TO THE FAA.—

7                   “(A) IN GENERAL.—The ODA holder of-  
8           fice described in paragraph (1) shall submit to  
9           the office of the Administration designated by  
10          the Administrator to accept and review such re-  
11          ports any credible instances of interference re-  
12          ported under paragraph (1).

13                   “(B) CONTENTS.—A report to the Admin-  
14          istration under this paragraph shall be sub-  
15          mitted in a manner, at a time, and in a form  
16          prescribed by the Administrator. Such report  
17          shall include the results of any investigation  
18          conducted by the ODA holder in response to a  
19          report of interference, a description of any ac-  
20          tion taken by the ODA holder as a result of the  
21          report of interference, and any other informa-  
22          tion or potentially mitigating factors the ODA  
23          holder or the Administrator deems appropriate.

24                   “(C) USE OF REPORT.—The Administrator  
25          may use the information submitted in a report

1 under this paragraph, including the actions  
2 taken by an ODA holder in response to a report  
3 under paragraph (1), in determining whether to  
4 issue a civil penalty pursuant to subsection (b)  
5 or whether such civil penalty should be subject  
6 to a setoff or compromised.

7 “(3) RULE OF CONSTRUCTION.—Nothing in  
8 this subsection shall be construed to preclude a  
9 member of an ODA unit from reporting an instance  
10 of interference reported under paragraph (1) directly  
11 to the Administration. Each ODA holder shall pro-  
12 vide notice to each member of such holder’s ODA  
13 unit stating that such individual may report an in-  
14 stance of interference reported under paragraph (1)  
15 directly to the Administration.

16 “(d) DEFINITIONS.—

17 “(1) GENERAL APPLICABILITY.—The defini-  
18 tions contained in section 44736 shall apply to this  
19 section.

20 “(2) INTERFERENCE.—In this section, the term  
21 ‘interference’ means—

22 “(A) blatant or egregious statements or be-  
23 havior, such as harassment, beratement, or  
24 threats, that a reasonable person would con-  
25 clude was intended to improperly influence or

1 prejudice an ODA unit member's performance  
2 of his or her duties; or

3 “(B) the presence of non-ODA unit duties  
4 or activities that conflict with the performance  
5 of authorized functions by ODA unit mem-  
6 bers.”.

7 (b) LATERAL COMMUNICATIONS.—

8 (1) CONTACT WITH ADMINISTRATION.—The  
9 Administrator shall ensure that employees of the Ad-  
10 ministration with responsibility for aircraft certifi-  
11 cation functions may directly contact non-managerial  
12 employees of an aircraft manufacturer for consulta-  
13 tion regarding the certification of aircraft design,  
14 production, and other matters.

15 (2) PROHIBITION.—It shall be a violation of  
16 section 44736(a)(2)(C) of title 49, United States  
17 Code, for a manufacturer to prohibit employees from  
18 contacting any employee of the Administration or  
19 otherwise impose any condition, restriction, or pen-  
20 alty (including by requiring prior notice to or the ap-  
21 proval of any supervisor or manager) with respect to  
22 such contact, except that such manufacturer may in-  
23 stitute reasonable, company-wide policies requiring  
24 documentation of communications regarding aircraft

1 design or production between the manufacturer's  
2 employees and Administration employees.

3 (c) ODA PROGRAM ENHANCEMENTS.—Section  
4 44736 of title 49, United States Code, is further amend-  
5 ed—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A) by striking  
9 the semicolon and inserting “; and”;

10 (ii) by striking subparagraph (B);

11 (iii) in subparagraph (C) by striking  
12 “; and” and inserting a period;

13 (iv) by striking subparagraph (D);

14 and

15 (v) by redesignating subparagraph (C)  
16 as subparagraph (B); and

17 (B) in paragraph (3) by striking “shall—  
18 ” and all that follows through the end and in-  
19 serting “shall conduct regular oversight activi-  
20 ties by inspecting the ODA holder's delegated  
21 functions and taking action based on validated  
22 inspection findings.”; and

23 (2) in subsection (b)(3)—

24 (A) in subparagraph (A)—

1 (i) by striking clause (i) and redesignating clauses (ii), (iii), and (iv) as clauses  
 2 (i), (ii), and (iii), respectively;

4 (ii) in clause (i) as redesignated by inserting “, as appropriate,” after “require”;

6 (iii) in clause (ii) as redesignated by inserting “, as appropriate,” after “require”; and

9 (iv) in clause (iii) as redesignated by inserting “when appropriate,” before  
 11 “make a reassessment”;

12 (B) by striking subparagraph (B);

13 (C) in subparagraph (D) by striking the semicolon and inserting “; and”;

15 (D) in subparagraph (E) by striking “; and” and inserting a period;

17 (E) in subparagraph (F) by inserting “, when appropriate,” before “approve”; and

19 (F) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

22 (d) TECHNICAL CORRECTIONS.—

23 (1) SECTION 44737.—Chapter 447 of title 49, United States Code, is further amended by redesignating the second section 44737 (as added by sec-

1       tion 581 of the FAA Reauthorization Act of 2018)  
2       as section 44740.

3               (2) ANALYSIS.—The analysis for chapter 447 of  
4       title 49, United States Code, is amended—

5               (A) by striking the item relating to the  
6       second section 44737 (as added by section 581  
7       of the FAA Reauthorization Act of 2018); and

8               (B) by inserting after the item relating to  
9       section 44739 the following new items:

“44740. Special rule for certain aircraft operations.

“44741. Approval of organization designation authorization unit members.

“44742. Interference with the duties of organization designation authorization  
unit members.”.

10              (3) SPECIAL RULE FOR CERTAIN AIRCRAFT OP-  
11       ERATIONS.—Section 44740 of title 49, United States  
12       Code (as redesignated by subsection (a)), is amend-  
13       ed—

14              (A) in the heading by striking the period  
15       at the end;

16              (B) in subsection (a)(1) by striking “chap-  
17       ter” and inserting “section”;

18              (C) in subsection (b)(1) by striking “(1)”  
19       the second time it appears; and

20              (D) in subsection (c)(2) by adding a period  
21       at the end.

1 **SEC. 9. INTEGRATED PROJECT TEAMS.**

2 (a) IN GENERAL.—Upon receipt of an application for  
3 a type certificate for a new transport airplane, the Admin-  
4 istrator shall convene an interdisciplinary integrated  
5 project team responsible for coordinating review of such  
6 application.

7 (b) MEMBERSHIP.—In convening an interdisciplinary  
8 integrated project team under subsection (a), the Adminis-  
9 trator shall appoint employees of the Administration with  
10 specialized expertise and experience in the fields of engi-  
11 neering, systems design, human factors, and pilot train-  
12 ing, including, at a minimum—

13 (1) not less than 1 designee of the Associate  
14 Administrator for Aviation Safety whose duty sta-  
15 tion is in the Administration’s headquarters;

16 (2) representatives of the Aircraft Certification  
17 Service of the Administration;

18 (3) representatives of the Flight Standards  
19 Service of the Administration;

20 (4) experts in the fields of human factors, aero-  
21 dynamics, flight controls, software, and systems de-  
22 sign; and

23 (5) any other subject matter expert whom the  
24 Administrator determines appropriate.

1 **SEC. 10. OVERSIGHT INTEGRITY BRIEFING.**

2 Not later than 1 year after the date of enactment  
3 of this Act, the Administrator shall brief the congressional  
4 committees of jurisdiction on specific measures the Ad-  
5 ministrator has taken to reinforce that each employee of  
6 the Administration responsible for overseeing an organiza-  
7 tion designation authorization with respect to the certifi-  
8 cation of aircraft perform such responsibility in accord-  
9 ance with safety management principles and in the public  
10 interest of aviation safety.

11 **SEC. 11. APPEALS OF CERTIFICATION DECISIONS.**

12 (a) IN GENERAL.—Section 44704, of title 49, United  
13 States Code, is further amended by adding at the end the  
14 following:

15 “(g) CERTIFICATION DISPUTE RESOLUTION.—

16 “(1) DISPUTE RESOLUTION PROCESS AND AP-  
17 PEALS.—

18 “(A) IN GENERAL.—Not later than 60  
19 days after the date of enactment of this sub-  
20 section, the Administrator shall issue an order  
21 establishing—

22 “(i) an effective, timely, and mile-  
23 stone-based issue resolution process for  
24 type certification activities under sub-  
25 section (a); and

1           “(ii) a process by which a decision,  
2           finding of compliance or noncompliance, or  
3           other act of the Administration, with re-  
4           spect to compliance with design require-  
5           ments, may be appealed by a covered per-  
6           son directly involved with the certification  
7           activities in dispute on the basis that such  
8           decision, finding, or act is erroneous or in-  
9           consistent with this chapter, regulations, or  
10          guidance materials promulgated by the Ad-  
11          ministrator, or other requirements.

12          “(B) ESCALATION.—The order issued  
13          under subparagraph (A) shall provide for—

14               “(i) resolution of technical issues at  
15               pre-established stages of the certification  
16               process, as agreed to by the Administrator  
17               and the type certificate applicant;

18               “(ii) automatic elevation to appro-  
19               priate management personnel of the Ad-  
20               ministration and the type certificate appli-  
21               cant of any major certification process  
22               milestone that is not completed or resolved  
23               within a specific period of time agreed to  
24               by the Administrator and the type certifi-  
25               cate applicant;

1 “(iii) resolution of a major certifi-  
2 cation process milestone elevated pursuant  
3 to clause (ii) with a specific period of time  
4 agreed to by the Administrator and the  
5 type certificate applicant;

6 “(iv) initial review by appropriate Ad-  
7 ministration employees of any appeal de-  
8 scribed in subparagraph (A)(ii); and

9 “(v) subsequent review of any further  
10 appeal by appropriate management per-  
11 sonnel of the Administration and the Asso-  
12 ciate Administrator for Aviation Safety.

13 “(C) DISPOSITION.—

14 “(i) WRITTEN DECISION.—The Asso-  
15 ciate Administrator for Aviation Safety  
16 shall issue a written decision on each ap-  
17 peal submitted under subparagraph (A)(ii),  
18 stating the grounds for the decision of the  
19 Associate Administrator.

20 “(ii) REPORT TO CONGRESS.—Not  
21 later than December 31 of each calendar  
22 year through calendar year 2025, the Ad-  
23 ministrator shall submit to the Committee  
24 on Transportation and Infrastructure of  
25 the House of Representatives and the

1 Committee on Commerce, Science, and  
2 Transportation of the Senate a report  
3 summarizing each appeal resolved under  
4 this subsection.

5 “(D) FINAL REVIEW.—

6 “(i) IN GENERAL.—A written decision  
7 of the Associate Administrator under sub-  
8 paragraph (C) may be appealed to the Ad-  
9 ministrator for a final review and deter-  
10 mination.

11 “(ii) DECLINE TO REVIEW.—The Ad-  
12 ministrator may decline to review an ap-  
13 peal initiated pursuant to clause (i).

14 “(iii) JUDICIAL REVIEW.—Notwith-  
15 standing any other provision of law, nei-  
16 ther a final determination of the Adminis-  
17 trator under clause (i) nor a decision to  
18 decline to review an appeal under clause  
19 (ii) shall be subject to judicial review.

20 “(2) PROHIBITED CONTACTS.—

21 “(A) PROHIBITION GENERALLY.—During  
22 the course of an appeal under this subsection,  
23 no covered official may engage in an ex parte  
24 communication with an individual representing  
25 or acting on behalf of an applicant for, or hold-

er of, a certificate under this section in relation to such appeal unless such communication is disclosed pursuant to subparagraph (B).

“(B) DISCLOSURE.—If, during the course of an appeal under this subsection, a covered official engages in, receives, or is otherwise made aware of an ex parte communication, the covered official shall disclose such communication in the public record at the time of the issuance of the written decision in accordance with subsection (g)(1)(C), including the time and date of the communication, subject of communication, and all persons engaged in such communication.

“(3) DEFINITIONS.—In this subsection:

“(A) COVERED PERSON.—The term ‘covered person’ means either—

“(i) an employee of the Administration whose responsibilities relate to the certification of aircraft, engines, propellers, or appliances; or

“(ii) an applicant for, or holder of, a type certificate or amended type certificate issued under this section.

1 “(B) COVERED OFFICIAL.—The term ‘cov-  
2 ered official’ means the following officials:

3 “(i) The Executive Director or any  
4 Deputy Director of the Aircraft Certifi-  
5 cation Service.

6 “(ii) The Deputy Executive Director  
7 for Regulatory Operations of the Aircraft  
8 Certification Service.

9 “(iii) The Director or Deputy Director  
10 of the Compliance and Airworthiness Divi-  
11 sion of the Aircraft Certification Service.

12 “(iv) The Director or Deputy Director  
13 of the System Oversight Division of the  
14 Aircraft Certification Service.

15 “(v) The Director or Deputy Director  
16 of the Policy and Innovation Division of  
17 the Aircraft Certification Service.

18 “(vi) The Executive Director or any  
19 Deputy Executive Director of the Flight  
20 Standards Service.

21 “(vii) The Associate Administrator or  
22 Deputy Associate Administrator for Avia-  
23 tion Safety.

24 “(viii) The Deputy Administrator of  
25 the Federal Aviation Administration.

1 “(ix) The Administrator of the Fed-  
2 eral Aviation Administration.

3 “(x) Any similarly situated or suc-  
4 cessor FAA management position, as de-  
5 termined by the Administrator.

6 “(C) MAJOR CERTIFICATION PROCESS  
7 MILESTONE.—The term ‘major certification  
8 process milestone’ means a milestone related to  
9 the type certification basis, type certification  
10 plan, type inspection authorization, issue paper,  
11 or other major type certification activity agreed  
12 to by the Administrator and the type certificate  
13 applicant.

14 “(4) RULE OF CONSTRUCTION.—Nothing in  
15 this subsection shall apply to the communication of  
16 a good-faith complaint by any individual alleging—

17 “(A) gross misconduct;

18 “(B) a violation of title 18; or

19 “(C) a violation of any of the provisions of  
20 part 2635 or 6001 of title 5, Code of Federal  
21 Regulations.”.

22 (b) CONFORMING AMENDMENT.—Section 44704(a)  
23 is amended by striking paragraph (6).

1 **SEC. 12. EMPLOYMENT RESTRICTIONS.**

2 (a) DISQUALIFICATION BASED ON PRIOR EMPLOY-  
 3 MENT.—An employee of the Administration with super-  
 4 visory responsibility may not direct, conduct, or otherwise  
 5 participate in oversight of a holder of a certificate issued  
 6 under section 44704 that previously employed such em-  
 7 ployee in the preceding 1-year period.

8 (b) POST-EMPLOYMENT RESTRICTIONS.—Section  
 9 44711(d) of title 49, United States Code, is amended to  
 10 read as follows:

11 “(d) POST-EMPLOYMENT RESTRICTIONS FOR IN-  
 12 SPECTORS AND ENGINEERS.—

13 “(1) PROHIBITION.—A person holding a certifi-  
 14 cate issued under part 21 or 119 of title 14, Code  
 15 of Federal Regulations, may not knowingly employ,  
 16 or make a contractual arrangement that permits, an  
 17 individual to act as an agent or representative of  
 18 such person in any matter before the Administration  
 19 if the individual, in the preceding 2-year period—

20 “(A) served as, or was responsible for over-  
 21 sight of—

22 “(i) a flight standards inspector of the  
 23 Administration; or

24 “(ii) an employee of the Administra-  
 25 tion with responsibility for certification

1 functions with respect to a holder of a cer-  
 2 tificate issued under section 44704(a); and

3 “(B) had responsibility to inspect, or over-  
 4 see inspection of, the operations of such person.

5 “(2) WRITTEN AND ORAL COMMUNICATIONS.—

6 For purposes of paragraph (1), an individual shall  
 7 be considered to be acting as an agent or representa-  
 8 tive of a certificate holder in a matter before the Ad-  
 9 ministration if the individual makes any written or  
 10 oral communication on behalf of the certificate hold-  
 11 er to the Administration (or any of its officers or  
 12 employees) in connection with a particular matter,  
 13 whether or not involving a specific party and without  
 14 regard to whether the individual has participated in,  
 15 or had responsibility for, the particular matter while  
 16 serving as an individual covered under paragraph  
 17 (1).”.

18 **SEC. 13. PROFESSIONAL DEVELOPMENT AND SKILLS EN-**  
 19 **HANCEMENT.**

20 (a) IN GENERAL.—The Administrator shall—

21 (1) develop a program for regular recurrent  
 22 training of engineers, inspectors, and other subject-  
 23 matter experts employed in the Aircraft Certification  
 24 Service of the Administration in accordance with the  
 25 training strategy developed pursuant to section 231

1 of the FAA Reauthorization Act of 2018 (Public  
2 Law 115–254; 132 Stat. 3256); and

3 (2) to the maximum extent practicable, imple-  
4 ment measures, including assignments in multiple  
5 divisions of the Aircraft Certification Service, to en-  
6 sure that such engineers and other subject-matter  
7 experts in the Aircraft Certification Service have ac-  
8 cess to diverse professional opportunities that ex-  
9 pand their knowledge and skills.

10 (b) IMPLEMENTATION.—The Administrator shall, to  
11 the maximum extent practicable, ensure that actions taken  
12 pursuant to subsection (a)—

13 (1) permit engineers, inspectors, and other sub-  
14 ject matter experts to continue developing knowledge  
15 of, and expertise in, new and emerging technologies  
16 in systems design, flight controls, principles of avia-  
17 tion safety, system oversight, and certification  
18 project management;

19 (2) minimize the likelihood of an individual de-  
20 veloping an inappropriate bias toward a designer or  
21 manufacturer of aircraft, aircraft engines, propellers,  
22 or appliances;

23 (3) are consistent with any applicable collective  
24 bargaining agreements; and

1           (4) account for gaps in knowledge and skills be-  
2       tween Administration employees and private-sector  
3       employees, as identified by the exclusive bargaining  
4       representatives certified under section 7111 of title  
5       5, United States Code, for each group of Adminis-  
6       tration employees covered under this section.

7   **SEC. 14. VOLUNTARY SAFETY REPORTING PROGRAM.**

8       (a) IN GENERAL.—Not later than 30 days after the  
9       date of enactment of this Act, the Administrator shall  
10      begin collaboration with the exclusive bargaining rep-  
11      resentatives of engineers, safety inspectors, systems safety  
12      specialists, and other subject matter experts certified  
13      under section 7111 of title 5, United States Code, to im-  
14      plement a confidential voluntary safety reporting program,  
15      in a manner that is consistent with other voluntary report-  
16      ing programs administered by the Administrator. The pro-  
17      gram shall include provisions addressing, at a minimum—

18           (1) participation in all facets of the program by  
19       the exclusive bargaining representatives for employ-  
20       ees identified in the matter preceding this para-  
21       graph;

22           (2) protections for frontline employees from ad-  
23       verse employment actions related to their participa-  
24       tion in the program;

25           (3) identification of exclusionary criteria; and

1           (4) creation of a corrective action process in  
2           order to address safety issues that are identified  
3           through the program.

4           (b) NEGOTIATIONS.—If the Administrator and the  
5           representatives described in subsection (a) are unable to  
6           reach an agreement collaboratively, the Administrator and  
7           such representatives shall negotiate in accordance with  
8           section 40122(a) of title 49, United States Code, to reach  
9           agreement on the terms and conditions of such a program.

10   **SEC. 15. COMPENSATION LIMITATION.**

11           Notwithstanding any other provision of law, an em-  
12           ployee of the Administration may not receive an adjust-  
13           ment to the employee's compensation solely on the basis  
14           of the employee's performance in meeting or exceeding a  
15           deadline related to the completion of certification func-  
16           tions.

17   **SEC. 16. SYSTEM SAFETY ASSESSMENTS AND OTHER RE-**  
18                           **QUIREMENTS.**

19           (a) IN GENERAL.—Not later than 2 years after the  
20           date of enactment of this Act, the Administrator shall  
21           issue such regulations as are necessary to amend title 14,  
22           Code of Federal Regulations, and any associated advisory  
23           circular, guidance, or policy of the Administration, in ac-  
24           cordance with this section.

1 (b) SYSTEM SAFETY ASSESSMENTS AND OTHER RE-  
2 QUIREMENTS.—In developing regulations under sub-  
3 section (a), the Administrator shall—

4 (1) require an applicant for an amended type  
5 certificate for a transport airplane to—

6 (A) perform a system safety assessment  
7 with respect to each proposed design change  
8 that the Administrator determines is signifi-  
9 cant, with such assessment considering the air-  
10 plane-level effects of individual errors, malfunc-  
11 tions, or failures and realistic pilot response  
12 times to such errors, malfunctions, or failures  
13 related to such change;

14 (B) update such assessment to account for  
15 each subsequent proposed design change that  
16 the Administrator determines is significant; and

17 (C) provide appropriate employees of the  
18 Administration with the data and assumptions  
19 underlying each assessment and amended as-  
20 sessment; and

21 (2) work with other civil aviation authorities  
22 representing states of design to ensure such regula-  
23 tions remain harmonized internationally.

24 (c) FAA REVIEW.—Appropriate employees of the  
25 Aircraft Certification Service and the Flight Standards

1 Service of the Administration shall review each system  
2 safety assessment required under subsection (b)(1)(A),  
3 updated assessment required under subsection (b)(1)(B),  
4 and supporting data and assumptions required under sub-  
5 section (b)(1)(C), to ensure that each such assessment  
6 sufficiently considers the matters listed under subsection  
7 (b)(1).

8 **SEC. 17. FLIGHT CREW ALERTING.**

9 (a) IN GENERAL.—Not later than 1 year after the  
10 date of enactment of this Act, the Administrator shall fully  
11 implement National Transportation Safety Board rec-  
12 ommendations A–19–11 and A–19–12 (as contained in  
13 the safety recommendation report adopted on September  
14 9, 2019).

15 (b) PROHIBITION.—Beginning on the date that is 2  
16 years after the date of enactment of this Act, the Adminis-  
17 trator may not issue a type certificate for a transport-cat-  
18 egory aircraft unless—

19 (1) in the case of a transport airplane, such air-  
20 plane incorporates a flight crew alerting system that,  
21 at a minimum, displays and differentiates among  
22 warnings, cautions, and advisories, and includes  
23 functions to assist the flight crew in prioritizing cor-  
24 rective actions and responding to systems failures; or

1           (2) in the case of a transport-category aircraft  
 2           other than a transport airplane, the type certificate  
 3           applicant provides a means acceptable to the Admin-  
 4           istrator to assist the flight crew in prioritizing cor-  
 5           rective actions and responding to systems failures  
 6           (including by cockpit or flight manual procedures).

7 **SEC. 18. AMENDED TYPE CERTIFICATES.**

8           (a) REVIEW AND REEVALUATION OF AMENDED TYPE  
 9           CERTIFICATES.—

10           (1) INTERNATIONAL LEADERSHIP.—The Ad-  
 11           ministrator shall exercise leadership in the creation  
 12           of international policies and standards relating to  
 13           the issuance of amended type certificates within the  
 14           group of international civil aviation authorities  
 15           known as the Certificate Management Team.

16           (2) REEVALUATION OF AMENDED TYPE CER-  
 17           TIFICATES.—In carrying out this subsection, the Ad-  
 18           ministrator shall—

19                   (A) encourage Certificate Management  
 20           Team members to examine and address any rel-  
 21           evant covered recommendations (as defined in  
 22           section 22) relating to the issuance of amended  
 23           type certificates;

24                   (B) reevaluate existing assumptions and  
 25           practices inherent in the amended type certifi-

1           cate process and assess whether such assump-  
2           tions and practices are valid; and

3           (C) ensure, to the greatest extent prac-  
4           ticable, that Federal regulations relating to the  
5           issuance of amended type certificates are har-  
6           monized with the regulations of other inter-  
7           national states of design.

8           (b) AMENDED TYPE CERTIFICATE REPORT AND  
9           RULEMAKING.—

10           (1) REPORT ON CERTIFICATE MANAGEMENT  
11           TEAM EFFORTS.—Not later than 18 months after  
12           the date of enactment of this Act, the Administrator  
13           shall submit a report to the congressional commit-  
14           tees of jurisdiction on the efforts by the Certificate  
15           Management Team to modify and harmonize policies  
16           and regulations relating to the issuance of amended  
17           type certificates.

18           (2) INITIATION OF ACTION.—Not later than 2  
19           years after the date of enactment of this Act, the  
20           Administrator shall revise and improve the process  
21           of issuing amended type certificates in accordance  
22           with this section. Such action may include the revi-  
23           sion of guidance, the initiating of a rulemaking, or  
24           such other action as the Administrator determines  
25           necessary to implement this section.

1           (3) CONTENTS.—In taking an action required  
2       under paragraph (2), the Administrator shall—

3           (A) consider—

4               (i) the findings and work of the Cer-  
5       tificate Management Team and other simi-  
6       lar international harmonization efforts;

7               (ii) any relevant covered recommenda-  
8       tions (as defined in section 22); and

9               (iii) whether a fixed time beyond  
10      which a type certificate may not be amend-  
11      ed would improve aviation safety; and

12          (B) establish the extent to which the fol-  
13      lowing design characteristics should preclude  
14      the issuance of an amended type certificate:

15               (i) A new or revised flight control sys-  
16      tem.

17               (ii) Any substantial changes to aero-  
18      dynamic stability resulting from a physical  
19      change that may require a new or modified  
20      software system or control law in order to  
21      produce positive and acceptable stability  
22      and handling qualities.

23               (iii) A flight control system or aug-  
24      mented software to maintain aerodynamic  
25      stability in any portion of the flight enve-

1           lope that was not required for a previously  
2           certified derivative.

3                   (iv) A change in structural compo-  
4           nents (other than a stretch or shrink of  
5           the fuselage) that results in a change in  
6           structural load paths or the magnitude of  
7           structural loads attributed to flight maneu-  
8           vers or cabin pressurization.

9                   (v) A novel or unusual system, compo-  
10          nent, or other feature whose failure would  
11          present a hazardous or catastrophic risk.

12           (4) DEADLINE.—The Administrator shall final-  
13          ize the actions initiated under paragraph (2) not  
14          later than 3 years after the date of enactment of  
15          this Act.

16           (c) INTERNATIONAL LEADERSHIP.—The Adminis-  
17          trator shall exercise leadership within the International  
18          Civil Aviation Organization and among other civil aviation  
19          regulators representing states of aircraft design to advo-  
20          cate for the adoption of requirements equivalent to those  
21          described in this section.

22   **SEC. 19. WHISTLEBLOWER PROTECTIONS.**

23           Section 42121 of title 49, United States Code, is  
24          amended—

1           (1) by striking subsection (a) and inserting the  
2           following:

3           “(a) PROHIBITED DISCRIMINATION.—A holder of a  
4           certificate under section 44704 or 44705 of this title, or  
5           contractor or subcontractor of such holder, may not dis-  
6           charge an employee or otherwise discriminate against an  
7           employee with respect to compensation, terms, conditions,  
8           or privileges of employment because the employee (or any  
9           person acting pursuant to a request of the employee)—

10           “(1) provided, caused to be provided, or is  
11           about to provide (with any knowledge of the em-  
12           ployer) or cause to be provided to the employer or  
13           Federal Government information relating to any vio-  
14           lation or alleged violation of any order, regulation,  
15           or standard of the Federal Aviation Administration  
16           or any other provision of Federal law relating to  
17           aviation safety under this subtitle or any other law  
18           of the United States;

19           “(2) has filed, caused to be filed, or is about to  
20           file (with any knowledge of the employer) or cause  
21           to be filed a proceeding relating to any violation or  
22           alleged violation of any order, regulation, or stand-  
23           ard of the Federal Aviation Administration or any  
24           other provision of Federal law relating to aviation

1 safety under this subtitle or any other law of the  
2 United States;

3 “(3) testified or is about to testify in such a  
4 proceeding; or

5 “(4) assisted or participated or is about to as-  
6 sist or participate in such a proceeding.”;

7 (2) by striking subsection (d) and inserting the  
8 following:

9 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-  
10 TIONS.—Subsection (a) shall not apply with respect to an  
11 employee of a holder of a certificate issued under section  
12 44704 or 44705, or a contractor or subcontractor thereof,  
13 who, acting without direction from such certificate-holder,  
14 contractor, or subcontractor (or such person’s agent), de-  
15 liberately causes a violation of any requirement relating  
16 to aviation safety under this subtitle or any other law of  
17 the United States.”; and

18 (3) by striking subsection (e) and inserting the  
19 following:

20 “(e) CONTRACTOR DEFINED.—In this section, the  
21 term ‘contractor’ means—

22 “(1) a person that performs safety-sensitive  
23 functions by contract for an air carrier or commer-  
24 cial operator; or

1           “(2) a person that performs safety-sensitive  
2           functions related to the design or production of an  
3           aircraft, aircraft engine, propeller, appliance, or  
4           component thereof by contract for a holder of a cer-  
5           tificate issued under section 44704.”.

6 **SEC. 20. PILOT TRAINING.**

7           (a) IN GENERAL.—Chapter 447 of title 49, United  
8           States Code, as amended by section 8, is further amended  
9           by adding at the end the following:

10 **“§ 44743. Pilot training requirements**

11           “(a) IN GENERAL.—

12                   “(1) ADMINISTRATOR’S DETERMINATION.—In  
13           establishing any pilot training requirements with re-  
14           spect to a new transport airplane, the Administrator  
15           of the Federal Aviation Administration shall inde-  
16           pendently review any proposal by the manufacturer  
17           of such airplane with respect to the scope, format,  
18           or minimum level of training required for operation  
19           of such airplane.

20                   “(2) ASSURANCES AND MARKETING REPRESENTATIONS.—Before the Administrator has established  
21           applicable training requirements, an applicant for a  
22           new or amended type certificate for an airplane de-  
23           scribed in paragraph (1) may not, with respect to  
24

1 the scope, format, or magnitude of pilot training for  
2 such airplane—

3 “(A) make any assurance, whether verbal  
4 or in writing, to a potential purchaser of such  
5 airplane unless a clear and conspicuous dis-  
6 claimer (as defined by the Administrator) is in-  
7 cluded regarding the status of training required  
8 for operation of such airplane; or

9 “(B) provide financial incentives (including  
10 rebates) to a potential purchaser of such air-  
11 plane regarding the scope, format, or mag-  
12 nitude of pilot training for such airplane.

13 “(b) PILOT RESPONSE TIME.—Beginning on the day  
14 after the date on which regulations are issued under sec-  
15 tion 20(b)(5) of the Aircraft Certification Reform and Ac-  
16 countability Act, the Administrator may not issue a new  
17 or amended type certificate for an airplane described in  
18 subsection (a) unless the applicant for such certificate has  
19 demonstrated to the Administrator that the applicant has  
20 accounted for realistic assumptions regarding the time for  
21 pilot responses to non-normal conditions in designing the  
22 systems and instrumentation of such airplane. Such as-  
23 sumptions shall—

24 “(1) be based on test data, analysis, or other  
25 technical validation methods; and

1           “(2) account for generally accepted scientific  
2           consensus among experts in human factors regard-  
3           ing realistic pilot response time.

4           “(c) DEFINITION.—In this section, the term ‘trans-  
5           port airplane’ means a transport-category airplane de-  
6           signed for operation by an air carrier or foreign air carrier  
7           type-certificated with a passenger seating capacity of 30  
8           or more or an all-cargo or combi derivative of such an  
9           airplane.”.

10          (b) CONFORMING AMENDMENT.—The analysis for  
11          chapter 447 of title 49, United States Code, is further  
12          amended by adding at the end the following:

          “44743. Pilot training requirements.”.

13          (c) EXPERT SAFETY REVIEW.—

14                (1) IN GENERAL.—Not later than 30 days after  
15                the date of enactment of this Act, the Administrator  
16                shall initiate an expert safety review of assumptions  
17                relied upon by the Administration and manufactur-  
18                ers of transport-category aircraft in the design and  
19                certification of such aircraft.

20                (2) CONTENTS.—The expert safety review re-  
21                quired under paragraph (1) shall include—

22                    (A) a review of Administration regulations,  
23                    guidance, and directives related to pilot re-  
24                    sponse assumptions relied upon by the FAA  
25                    and manufacturers of transport-category air-

1           craft in the design and certification of such air-  
2           craft;

3           (B) a focused review of the assumptions  
4           relied on regarding the time for pilot responses  
5           to non-normal conditions in designing such air-  
6           craft's systems and instrumentation;

7           (C) a review of revisions made to the air-  
8           man certification standards for certificates over  
9           the last four years, including any possible ef-  
10          fects on pilot competency in basic manual flying  
11          skills;

12          (D) consideration of the global nature of  
13          the aviation marketplace, varying levels of pilot  
14          competency, and differences in pilot training  
15          programs worldwide; and

16          (E) a process for aviation stakeholders, in-  
17          cluding pilots, airlines, inspectors, engineers,  
18          test pilots, human factors experts, and other  
19          aviation safety experts, to provide and discuss  
20          any observations, feedback, and best practices.

21          (3) REPORT AND RECOMMENDATIONS.—Not  
22          later than 30 days after the conclusion of the expert  
23          safety review pursuant to paragraph (1), the Admin-  
24          istrator shall submit to the congressional committees  
25          of jurisdiction a report on the results of the review,

1 any recommendations for actions or best practices to  
2 ensure the FAA and the manufacturers of transport-  
3 category aircraft have accounted for pilot response  
4 assumptions to be relied upon in the design and cer-  
5 tification of transport-category aircraft.

6 (4) TERMINATION.—The expert safety review  
7 shall end upon submission of the report required  
8 pursuant to paragraph (3).

9 (5) REGULATIONS.—The Administrator shall  
10 issue such regulations as are necessary to implement  
11 the recommendations of the expert safety review  
12 that the Administrator determines are necessary to  
13 improve aviation safety.

14 (d) CALL TO ACTION ON AIRMAN CERTIFICATION  
15 STANDARDS.—

16 (1) IN GENERAL.—Not later than 60 days after  
17 the date of enactment of this Act, the Administrator  
18 shall initiate a call to action safety review of pilot  
19 certification standards in order to bring stakeholders  
20 together to share lessons learned, best practices, and  
21 implement actions to address any safety issues iden-  
22 tified.

23 (2) CONTENTS.—The call to action safety re-  
24 view required under paragraph (1) shall include—

1 (A) a review of Administration regulations,  
2 guidance, and directives related to the pilot cer-  
3 tification standards, including the oversight of  
4 those processes;

5 (B) a review of revisions made to the pilot  
6 certification standards for certificates over the  
7 last four years, including any possible effects on  
8 pilot competency in manual flying skills and ef-  
9 fectively managing automation to improve safe-  
10 ty; and

11 (C) a process for aviation stakeholders, in-  
12 cluding aviation students, instructors, des-  
13 ignated pilot examiners, pilots, airlines, labor,  
14 and aviation safety experts, to provide and dis-  
15 cuss any observations, feedback, and best prac-  
16 tices.

17 (3) REPORT AND RECOMMENDATIONS.—Not  
18 later than 90 days after the conclusion of the call to  
19 action safety review pursuant to paragraph (1), the  
20 Administrator shall submit to the congressional com-  
21 mittees of jurisdiction a report on the results of the  
22 review, any recommendations for actions or best  
23 practices to ensure pilot competency in basic manual  
24 flying skills and in effective management of automa-

1       tion, and actions the Administrator will take in re-  
2       sponse to the recommendations.

3       (e) INTERNATIONAL PILOT TRAINING.—

4           (1) IN GENERAL.—The Secretary of Transpor-  
5       tation, the Administrator, and other appropriate of-  
6       ficials of the Government shall exercise leadership in  
7       setting global standards to improve air carrier pilot  
8       training and qualifications for—

9           (A) monitoring and managing the behavior  
10       and performance of automated systems;

11          (B) controlling the flightpath of aircraft  
12       without autoflight systems engaged;

13          (C) effectively utilizing and managing  
14       autoflight systems, when appropriate;

15          (D) effectively identifying situations in  
16       which the use of autoflight systems is appro-  
17       priate and when such use is not appropriate;  
18       and

19          (E) recognizing and responding appro-  
20       priately to non-normal conditions.

21       (2) INTERNATIONAL LEADERSHIP.—The Sec-  
22       retary, the Administrator, and other appropriate of-  
23       ficials of the Government shall exercise leadership  
24       under subsection (a) by working with—

1 (A) foreign counterparts of the Adminis-  
2 trator in the International Civil Aviation Orga-  
3 nization and its subsidiary organizations;

4 (B) other international organizations and  
5 fora; and

6 (C) the private sector.

7 (3) CONSIDERATIONS.—In exercising leadership  
8 under paragraph (1), the Secretary, the Adminis-  
9 trator, and other appropriate officials of the Govern-  
10 ment shall consider—

11 (A) the latest information relating to  
12 human factors;

13 (B) aircraft manufacturing trends, includ-  
14 ing those relating to increased automation in  
15 the cockpit;

16 (C) the extent to which cockpit automation  
17 improves aviation safety and introduces novel  
18 risks;

19 (D) the availability of opportunities for pi-  
20 lots to practice manual flying skills;

21 (E) the need for consistency in maintain-  
22 ing and enhancing manual flying skills world-  
23 wide;

1 (F) recommended practices of other coun-  
2 tries that enhance manual flying skills and au-  
3 tomation management; and

4 (G) whether a need exists for initial and  
5 recurrent training standards for improve pilots'  
6 proficiency in manual flight and in effective  
7 management of autoflight systems.

8 (4) CONGRESSIONAL BRIEFING.—The Sec-  
9 retary, the Administrator, and other appropriate of-  
10 ficials of the Government shall provide to the con-  
11 gressional committees of jurisdiction regular brief-  
12 ings on the status of efforts undertaken pursuant to  
13 this section.

14 **SEC. 21. NONCONFORMITY WITH APPROVED TYPE DESIGN.**

15 Section 44704(a) of title 49, United States Code, is  
16 further amended by adding at the end the following:

17 “(6) NONCONFORMITY WITH APPROVED TYPE  
18 DESIGN.—

19 “(A) IN GENERAL.—Except as provided in  
20 subparagraph (D), a holder of a production cer-  
21 tificate for an aircraft may not present a non-  
22 conforming aircraft to the Administrator for  
23 issuance of an airworthiness certificate.

24 “(B) CIVIL PENALTY.—Notwithstanding  
25 section 46301, a production certificate holder

1 who knowingly violates subparagraph (A) shall  
2 be liable to the Administrator for a civil penalty  
3 of not more than \$1,000,000 for each noncon-  
4 forming aircraft.

5 “(C) PENALTY CONSIDERATIONS.—In de-  
6 termining the amount of a civil penalty under  
7 subparagraph (B), the Administrator shall con-  
8 sider—

9 “(i) the nature, circumstances, extent,  
10 and gravity of the violation, including the  
11 length of time the nonconformity was  
12 known but not disclosed; and

13 “(ii) with respect to the violator, the  
14 degree of culpability, any history of prior  
15 violations, and the size of the business con-  
16 cern.

17 “(D) REMEDIAL ACTION.—The Adminis-  
18 trator may permit a production certificate hold-  
19 er to present a nonconforming aircraft to the  
20 Administrator for an airworthiness certificate  
21 if—

22 “(i) the Administrator determines the  
23 nonconformity, when compared to the con-  
24 figuration approved as part of the type de-  
25 sign, does not diminish by any degree the

1 aircraft's safe operation without any  
2 change in flight crew operating procedures;

3 “(ii) the Administrator determines the  
4 nonconformity was not the product of an  
5 intentional decision by the production cer-  
6 tificate holder to alter the aircraft's con-  
7 figuration from the approved type design;

8 “(iii) the production certificate holder  
9 has fully complied with subparagraph (E);

10 “(iv) the production certificate holder  
11 agrees to correct the nonconformity on all  
12 nonconforming aircraft within a timeframe  
13 that is—

14 “(I) prescribed by the Adminis-  
15 trator; and

16 “(II) commensurate with the se-  
17 verity of the nonconformity;

18 “(v) the production certificate holder  
19 informs a person who is to take delivery of  
20 the nonconforming aircraft of the non-  
21 conformance prior to its delivery; and

22 “(vi) the production certificate holder  
23 agrees not to impose any penalty, financial  
24 or otherwise, on a person that chooses to  
25 delay the delivery of a nonconforming air-

craft until the production certificate holder, to the Administrator's satisfaction, conforms the aircraft to the approved type design of such aircraft.

“(E) NOTIFICATION AND PROPOSED REMEDIAL ACTION.—A production certificate holder shall, within 5 days of determining that such production certificate holder delivered a nonconforming aircraft, notify the Administrator, the purchaser of the airplane, and (if the purchaser is a lessor) the intended operator of the airplane, if known. A notification under this clause shall describe—

“(i) the nonconformity in detail; and

“(ii) the production certificate holder's initial proposal for actions necessary to eliminate the nonconformity.

“(F) NONCONFORMING AIRCRAFT DEFINED.—In this paragraph, the term ‘nonconforming aircraft’ means an aircraft that does not conform to the approved type design for such aircraft type.”.

**SEC. 22. IMPLEMENTATION OF RECOMMENDATIONS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall sub-

1 mit a report to the congressional committees of jurisdic-  
2 tion on the status of the Administration’s implementation  
3 of covered recommendations.

4 (b) CONTENTS.—The report required under sub-  
5 section (a) shall contain, at a minimum—

6 (1) a list and description of all covered rec-  
7 ommendations;

8 (2) a determination of whether the Adminis-  
9 trator concurs, concurs in part, or does not concur  
10 with each covered recommendation;

11 (3) an implementation plan and schedule for all  
12 covered recommendations the Administrator concurs  
13 or concurs in part with; and

14 (4) for each covered recommendation with  
15 which the Administrator does not concur (in whole  
16 or in part), a detailed explanation as to why.

17 (c) COVERED RECOMMENDATIONS DEFINED.—In  
18 this section, the term “covered recommendations” means  
19 recommendations made by the following entities in any re-  
20 view initiated in response to the accident of Lion Air flight  
21 610 on October 29, 2018, or Ethiopian Airlines flight 302  
22 on March 10, 2019, that recommend Administration ac-  
23 tion:

24 (1) The National Transportation Safety Board.

25 (2) The Joint Authorities Technical Review.

1           (3) The inspector general of the Department of  
2       Transportation.

3           (4) The Safety Oversight and Certification Ad-  
4       visory Committee, or any special committee thereof.

5           (5) Any other entity the Administrator may  
6       designate.

7       **SEC. 23. OVERSIGHT OF FAA COMPLIANCE PROGRAM.**

8           (a) IN GENERAL.—Not later than 180 days after the  
9       date of enactment of this Act, the Administrator shall es-  
10      tablish an Executive Council within the Administration to  
11      oversee the use and effectiveness across program offices  
12      of the Administration’s Compliance Program, described in  
13      Order 8000.373A dated October 31, 2018.

14          (b) COMPLIANCE PROGRAM OVERSIGHT.—The Exec-  
15      utive Council established under this section shall—

16           (1) monitor, collect, and analyze data on the  
17      use of the Compliance Program across program of-  
18      fices of the Administration, including data on en-  
19      forcement actions and compliance actions pursued  
20      against regulated entities by such program offices;

21           (2) conduct an evaluation of the Compliance  
22      Program, not less frequently than annually each cal-  
23      endar year through 2023, to assess the functioning  
24      and effectiveness of such program in meeting the  
25      stated goals and purpose of the program;

1           (3) provide reports to the Administrator con-  
2           taining the results of any evaluation conducted  
3           under paragraph (2), including identifying in such  
4           report any nonconformities or deficiencies in the im-  
5           plementation of the program and compliance of reg-  
6           ulated entities with safety standards of the Adminis-  
7           tration;

8           (4) make recommendations to the Adminis-  
9           trator on regulations, guidance, performance stand-  
10          ards or metrics, or other controls that should be  
11          issued by the Administrator to improve the effective-  
12          ness of the Compliance Program in meeting the stat-  
13          ed goals and purpose of the program and to ensure  
14          the highest levels of aviation safety; and

15          (5) carry out any other oversight duties with re-  
16          spect to implementation of the Compliance Program  
17          and assigned by the Administrator.

18          (c) EXECUTIVE COUNCIL.—

19               (1) EXECUTIVE COUNCIL MEMBERSHIP.—The  
20          Compliance Program Executive Council shall be  
21          comprised of representatives from each program of-  
22          fice with regulatory responsibility as provided in  
23          Order 8000.373A.

24               (2) CHAIRPERSON.—The Executive Council  
25          shall be chaired by a person, who shall be appointed

1 by the Administrator and shall report directly to the  
2 Administrator.

3 (3) INDEPENDENCE.—The Secretary of Trans-  
4 portation, the Administrator, or any officer or em-  
5 ployee of the Administration may not prevent or pro-  
6 hibit the chair of the Executive Council from per-  
7 forming the activities described in this section or  
8 from reporting to Congress on such activities.

9 (4) DURATION.—The Executive Council shall  
10 terminate on October 1, 2023.

11 (d) ANNUAL BRIEFING.—Each calendar year  
12 through 2023, the chair of the Executive Council shall  
13 provide a briefing to the congressional committees of juris-  
14 diction on the effectiveness of the Administration’s Com-  
15 pliance Program in meeting the stated goals and purpose  
16 of the program and the activities of the office described  
17 in subsection (b), including any reports and recommenda-  
18 tions made by the office during the preceding calendar  
19 year.

20 **SEC. 24. SETTLEMENT AGREEMENT.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-  
22 gress that the Administrator should fully exercise all  
23 rights and pursue all remedies available to the Adminis-  
24 trator under any settlement agreement between the Ad-  
25 ministration and the holder of a type certificate and pro-

1 duction certificate for transport airplanes executed on De-  
2 cember 18, 2015, including a demand for full payment of  
3 any applicable civil penalties deferred under such agree-  
4 ment, if the Administrator concludes that such holder has  
5 not fully performed all obligations incurred under such  
6 agreement.

7 (b) CONGRESSIONAL BRIEFING.—Not later than  
8 February 1, 2021, and every 6 months thereafter until  
9 a certificate holder described in subsection (a) has fully  
10 performed all obligations incurred by such certificate hold-  
11 er under such settlement agreement, the Administrator  
12 shall brief the congressional committees of jurisdiction on  
13 action taken consistent with subsection (a).

14 **SEC. 25. HUMAN FACTORS.**

15 (a) AIRCRAFT CERTIFICATION PROCESS.—

16 (1) EVALUATION.—Not later than 18 months  
17 after the date of enactment of this Act, the Adminis-  
18 trator (acting through the Associate Administrator  
19 for Aviation Safety of the Administration) shall—

20 (A) conduct an evaluation of the develop-  
21 ment of tools and methods to support the inte-  
22 gration of human factors assessment and sys-  
23 tem safety assessments of human interaction  
24 with flight deck and flight control systems for  
25 transport airplanes into the aircraft certifi-

1 cation process under section 44704 of title 49,  
2 United States Code; and

3 (B) develop a framework to better inte-  
4 grate human factors throughout such aircraft  
5 certification process with the objective of im-  
6 proving safety by designing systems and train-  
7 ing pilots in a manner that accounts for con-  
8 temporary knowledge to reduce the possibility  
9 of an accident resulting in whole or in part  
10 from the pilot's interaction with the aircraft.

11 (2) REPORT TO CONGRESS.—Not later than 60  
12 days after the completion of the evaluation required  
13 under paragraph (1), the Administrator shall submit  
14 to Congress a report detailing the findings of such  
15 report and a plan for implementation based on such  
16 findings of such report.

17 (3) IMPLEMENTATION.—Upon submission of  
18 the report required under paragraph (2), the Admin-  
19 istrator shall implement the findings of such evalua-  
20 tion.

21 (b) HUMAN FACTORS EDUCATION PROGRAM.—

22 (1) IN GENERAL.—The Administrator shall de-  
23 velop a human factors education program that ad-  
24 dresses the effects of modern flight deck systems, in-  
25 cluding automated systems, on human performance

1 for transport airplanes and the approaches for better  
2 integration of human factors in aircraft design and  
3 certification.

4 (2) TARGET AUDIENCE.—The human factors  
5 education program shall be integrated into the train-  
6 ing protocol in existence as of the date of the enact-  
7 ment of this Act such that such program is routinely  
8 administered to the following:

9 (A) Appropriate employees within the  
10 Flight Standards Service.

11 (B) Appropriate employees within the Air-  
12 craft Certification Service.

13 (C) Other employees or authorized rep-  
14 resentatives determined to be necessary by the  
15 Administrator.

16 (c) TRANSPORT AIRPLANE MANUFACTURER INFOR-  
17 MATION SHARING.—The Administrator shall—

18 (1) require each transport airplane manufac-  
19 turer to provide the Administrator with the informa-  
20 tion or findings necessary for flight crew to be  
21 trained on flight deck systems;

22 (2) ensure the information or findings under  
23 paragraph (1) adequately includes consideration of  
24 human factors; and

1           (3) ensure that each transport airplane manu-  
2           facturer identifies any technical basis, justification  
3           or rationale for the information and findings under  
4           paragraph (1).

5 **SEC. 26. TECHNICAL CORRECTIONS.**

6           Section 46301 of title 49, United States Code, is  
7           amended—

8           (1) in subsection (a)(1)(A) by striking “(except  
9           sections 44717 and 44719–44723)” and inserting  
10          “(except sections 44704(a)(6), 44704(e)(4), 44717,  
11          and 44719–44723)”;

12          (2) in subsection (a)(5)(A) by striking “(except  
13          sections 44717–44723)” and inserting “(except sec-  
14          tions 44704(a)(6), 44704(e)(4), and 44717–  
15          44723)”;

16          (3) in subsection (d)(2) by striking “(except  
17          sections 44717 and 44719–44723)” and inserting  
18          “(except sections 44704(a)(6), 44704(e)(4), 44717,  
19          and 44719–44723)”;

20          (4) in subsection (f)(1)(A)(i) by striking “(ex-  
21          cept sections 44717 and 44719–44723)” and insert-  
22          ing “(except sections 44704(a)(6), 44704(e)(4),  
23          44717, and 44719–44723)”.

24 **SEC. 27. DEFINITIONS.**

25           In this Act:

1           (1) ADMINISTRATION; FAA.—The terms “Ad-  
2           ministration” and “FAA” mean the Federal Avia-  
3           tion Administration.

4           (2) ADMINISTRATOR.—The term “Adminis-  
5           trator” means the Administrator of the FAA.

6           (3) ORGANIZATION DESIGNATION AUTHORIZA-  
7           TION.—The term “organization designation author-  
8           ization” has the same meaning given such term in  
9           section 44736 of title 49, United States Code.

10          (4) CONGRESSIONAL COMMITTEES OF JURISDIC-  
11          TION.—The term “congressional committees of juris-  
12          diction” means the Committee on Transportation  
13          and Infrastructure of the House of Representatives  
14          and the Committee on Commerce, Science, and  
15          Transportation of the Senate.

16          (5) HUMAN FACTORS.—The term “human fac-  
17          tors” means a multidisciplinary set of principles de-  
18          veloped to holistically explain and predict pilot be-  
19          havior in relation to the management of the oper-  
20          ation of an aircraft, including the pilot’s manage-  
21          ment of aircraft systems and response to systems  
22          failures and non-normal conditions.

23          (6) TRANSPORT AIRPLANE.—The term “trans-  
24          port airplane” means a transport-category airplane  
25          designed for operation by an air carrier or foreign

1 air carrier type-certificated with a passenger seating  
2 capacity of 30 or more or an all-cargo or combi de-  
3 rivative of such an airplane.

4 (7) TYPE CERTIFICATE.—The term “type cer-  
5 tificate”—

6 (A) means a type certificate issued pursu-  
7 ant to section 44704(a) of title 49, United  
8 States Code, or an amendment to such certifi-  
9 cate; and

10 (B) does not include a supplemental type  
11 certificate issued under section 44704(b) of  
12 such section.

○